

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT.

OAH Case No. 2016050660

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On May 13, 2016, Parents on behalf of Student filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming San Dieguito Union High School. District timely filed a Notice of Insufficiency as to Student's complaint.<sup>2</sup> For the reasons discussed below, the complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

<sup>2</sup> OAH received District's Notice of Insufficiency on May 12, 2016, the day before the filing of Student's complaint.

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.” (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. of Educ. v. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

## DISCUSSION

The complaint lists eight concerns or issues with specificity: (1) lack of progress and regression; (2) the lack of program standards and functional curriculum; (3) lack of direct teaching; (4) speech and language services are not in compliance, using methodologies that are not effective; (5) inappropriate Individualized Transition Plan; (6) inappropriate and nonaligned post-secondary goals; (7) no multi-year description of Student’s coursework through anticipated exit year; and (8) lack of access to vocational music-related programs. The complaint states that there had been six individualized education program meetings this, the 2015-2016 school year, at which Parents brought up the listed eight issues; the issues remain unresolved.

The complaint asserts that the Parents requested other adult transition program options and District provided a list of options for Parents to contact and observe. Parents did so and determined that Sierra Academy Adult Transition Program was appropriate for Student’ learning needs. However, when Parents requested that District place Student at Sierra Academy, the request was denied; District did not propose any alternatives. The complaint’s proposed resolution is that Student be placed at Sierra Academy or another program that would meet Student’s learning needs.

District states that the complaint does not provide background facts or specify at which IEP a particular issue was raised. Further, District asserts that the complaint does not give sufficient notice to District of the nature of the complaints and scope of the disagreement. However, the facts alleged in Student’s complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Though only two pages in length, Student’s complaint clearly identifies the ongoing issues and provides adequate related facts about the problems to permit District to respond to the complaint and participate in a resolution session and mediation.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: May 18, 2016

DocuSigned by:



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CLIFFORD H. WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings